

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RONALD KEITH SNYDER,

Defendant-Appellant.

UNPUBLISHED

March 1, 2007

No. 265592

Shiawassee Circuit Court

LC No. 05-002232-FH

Before: O’Connell, P.J., and Saad and Talbot, JJ.

PER CURIAM.

Defendant Ronald Keith Snyder appeals his jury trial convictions for second-degree home invasion, MCL 750.110a(3), and conspiracy to commit second-degree home invasion, MCL 750.157a. We affirm.

Defendant argues that there was insufficient evidence to support either of his convictions. We review de novo claims of insufficient evidence. *People v Lueth*, 253 Mich App 670, 680; 660 NW2d 322 (2002). This Court views the evidence in a light most favorable to the prosecution in order to determine whether any rational trier of fact could have found that the essential elements of the charged crime were proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999).

The relevant elements of second-degree home invasion are (1) the breaking and entering or entering without permission of a dwelling; (2) with the intent to commit larceny therein. MCL 750.110a(3). Here, the prosecutor’s theory was that defendant aided and abetted codefendant Alan Trevarrow in the commission of a second-degree home invasion. To convict defendant under an aiding and abetting theory, the prosecutor was required to present evidence that: “(1) the crime charged was committed by the defendant or some other person, (2) the defendant performed acts or gave encouragement that assisted the commission of the crime, and (3) the defendant intended the commission of the crime or had knowledge that the principal intended its commission at the time he gave aid and encouragement.” *People v Carines*, 460 Mich 750, 768; 597 NW2d 130 (1999). The prosecutor was also required to demonstrate that defendant possessed the specific intent to commit a larceny inside of the invaded dwelling, or that defendant had knowledge that Trevarrow intended to commit a larceny inside of the victim’s dwelling at the time defendant provided aid or encouragement. *People v King*, 210 Mich App 425, 431; 534 NW2d 534 (1995).

Viewed in a light most favorable to the prosecutor, there was sufficient evidence for a rational jury to find beyond a reasonable doubt that defendant committed second-degree home invasion by aiding and abetting Trevarrow. Trevarrow testified that he broke into and entered the victim's house, with the intent to commit a larceny by taking a "PlayStation 2" video game console. The evidence revealed that defendant assisted Trevarrow in the commission of the second-degree home invasion by driving Trevarrow from a house located several blocks away to a spot that was close to the victim's house. Defendant admitted that he later picked up Trevarrow near the victim's house and transported him to the place where Trevarrow had stashed the video game console. Defendant then drove Trevarrow a portion of the distance to Flint, where Trevarrow traded the video game console for crack cocaine, which both Trevarrow and defendant consumed. Trevarrow testified that defendant knew about Trevarrow's plan to commit second-degree home invasion during the periods of time that defendant rendered assistance to Trevarrow. On the basis of this record, we conclude that the prosecutor presented sufficient evidence to demonstrate beyond a reasonable doubt that Trevarrow broke into the victim's house with the intent to commit a larceny; that defendant preformed acts that assisted Trevarrow in the commission of the second-degree home invasion; and that, when defendant performed these acts, he was aware that Trevarrow intended to commit a second-degree home invasion.

While defendant presented evidence to show that he did not intend to assist Trevarrow, and even attempted to dissuade Trevarrow, prosecutors are not required to negate all reasonable theories of innocence, but are only required to prove their own theories beyond a reasonable doubt against the contradictory evidence defendants provide. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). Furthermore, the jury was allowed to infer from defendant's actions that, even though he testified to the contrary, he intended the commission of the second-degree home invasion. An aider and abettor's state of mind may be inferred from all the facts and circumstances. *Carines, supra* at 757-758. While mere presence is insufficient to support a conviction based upon an aiding and abetting theory, it is for the trier of fact rather than this Court to determine what inferences can be fairly drawn from the evidence and to determine the weight to be accorded to the inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002).

Defendant also argues that there was insufficient evidence for a rational jury to convict him of conspiracy to commit second-degree home invasion. A conspiracy is a voluntary mutual agreement or understanding between two or more people to commit a criminal act. *People v Blume*, 443 Mich 476, 481, 485; 505 NW2d 843 (1993). The elements of conspiracy are: (1) defendant intended to combine with another person; and (2) the participants intended to accomplish an illegal objective. *People v Mass*, 464 Mich 615, 629; 628 NW2d 540 (2001). The prosecutor was required to prove that the parties "specifically intended to further, promote, advance, or pursue an unlawful objective." *People v Justice (After Remand)*, 454 Mich 334, 347; 562 NW2d 652 (1997). A conspiracy is complete upon formation of the agreement; therefore, no overt act in furtherance of the conspiracy must be shown to support a conviction. *People v Cotton*, 191 Mich App 377, 393; 478 NW2d 681 (1991).

At trial, the prosecutor presented evidence to show that defendant and Trevarrow made an agreement to commit a second-degree home invasion. Trevarrow testified that defendant agreed to execute the plan. Trevarrow also testified that defendant communicated the initial

plan, which was originally formulated by another person, to break into the victim's house and take the video game console. According to Officer Jason Hartz, defendant subsequently admitted in a statement to police that there was a "plan," and that the plan called for "the two of them [Trevarrow and defendant] to go get the [video game console] together and then go get drugs, the two of them." Proof of a conspiracy may be derived from the circumstances, acts, and conduct of the parties, and juries are allowed to make inferences. *Justice, supra* at 347. Thus, the jury was allowed to infer defendant's intent to agree with the plan from his conduct, such as when defendant drove Trevarrow to a spot close to the victim's house, when he transported Trevarrow to the location of the stashed video game console after the home invasion occurred, and when defendant consumed the proceeds of the larceny with Trevarrow.

Affirmed.

/s/ Peter D. O'Connell
/s/ Henry William Saad
/s/ Michael J. Talbot